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REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

March 17, 2010

Regulatory Division SPK-2010-00164

Lou Prat, Transportation Supervisor
Kane County
76 North Main Street
Kanab, Utah 84741

Dear Mr. Prat:

On February 8, 2010, you submitted a Joint Permit Application (Stream Alteration Application Number 10-85-01SA) for Department of the Army authorization, under Regional General Permit 40, to install two culverts in Lower Robinson Creek for the Kane County Road 136 Realignment Project. The project is located in Section 25, Township 39 South, Range 6 West, Latitude 37.3957 North, Longitude 112.4605 South, Alton, Kane County, Utah.

Our review of your application indicates that the project purpose is to re-route the existing County Road 136 by constructing a 3.1 mile roadway and installing 13 culverts, totaling 1311 linear feet, to facilitate the proposed Alton Coal, Coal Hollow Mine Project (SPK-2009-01008). We have reviewed your proposed project and determined that it would not occur but for the Coal Hollow Mine Project, and is therefore not a single and complete project. As such, the impacts to waters from the road realignment project must be evaluated with the larger coal mining project. We have administratively withdrawn your request for Clean Water Act Section 404 authorization under Regional General Permit 40 and will integrate this request into the overall Coal Hollow Mine Project.

Further, we have not received a wetland delineation report for your project and; therefore, we are unable to verify the extent of waters of the United States potentially affected by the project. We have enclosed an itemized list of the minimal information we need to process a jurisdictional determination request. Upon receiving a completed wetlands delineation report, we will evaluate it together with the Coal Hollow Mine Project.

On March 4, 2010, the Utah State Engineer issued you a State Only authorization (Number 10-85-01SA) to install culverts 7 and 8 in Lower Robinson Creek, a water of the United States. Please be advised that any discharge into wetlands or other jurisdictional waters without an appropriate Department of the Army Permit would constitute an unauthorized activity. Therefore, we recommend that no project work occur for the Kane County Road 136 Realignment Project until the wetland delineation report is submitted, our jurisdictional determination is completed, and we have issued any required Department of the Army permits.

C/025/005 Incoming
CC: Dana

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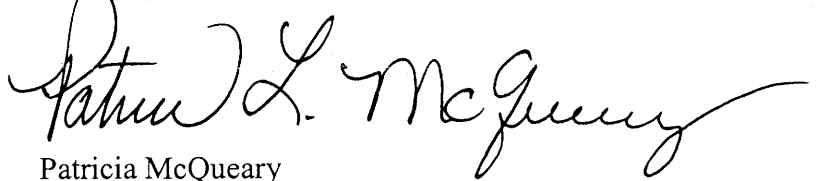
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DIV. OF OIL, GAS & MINING

We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey on our website under *Customer Service Survey*.

Please refer to identification number SPK-2010-00164 in any correspondence concerning this project. If you have any questions, please contact Karen Clementsen at 321 North Mall Drive, Suite L-101, St. George, UT 84790-7310, email Karen.L.Clements@usace.army.mil, or telephone 435-986-1961. For more information regarding our program, please visit our website at www.spk.usace.army.mil/regulatory.html.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia L. McQueary". The signature is fluid and cursive, with the first name "Patricia" being more legible than the last name "McQueary".

Patricia McQueary
Senior Regulatory Project Manager

Enclosure:

Minimum Standards for Acceptance of Preliminary Wetlands Delineations, November 30, 2001

Copy furnished without enclosure:

Charles Williamson, State of Utah Division of Water Rights, PO Box 146300, Salt Lake City,
Utah 84114-6300

✓Darron Haddock, Utah Division of Oil, Gas and Mining, PO Box 145801, Salt Lake City, Utah
84114-5801

Keith Rigtrup, Bureau of Land Management, 176 East DL Sargent Drive, Cedar City, Utah
84721-9337